

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL 2327 JOSEPH R. GOODWIN U.S. DISTRICT JUDGE
THIS DOCUMENT RELATES TO: <i>Christine Aylworth</i>	Case No. 2:13-cv-06856

**PLAINTIFFS' OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

Defendants Ethicon and Johnson & Johnson filed a Motion for Partial Summary Judgment on Plaintiff's claims for strict liability design defect (Count II); strict liability manufacturing defect (Count III); breach of express warranty (Count V); breach of implied warranty (Count IV); and any claim for negligent manufacturing under Plaintiff's claim for negligence (Count I). Plaintiffs will not be pursuing these Counts at trial.

Defendants have not moved for Summary Judgement on Plaintiffs' remaining counts which include Count I negligent design; Count IV strict liability failure to warn; Count VIII discovery rule and tolling; and Count IX punitive damages. Plaintiffs will be pursuing these claims.

As Plaintiff is not pursuing the counts listed in Defendants' Motion for Partial Summary Judgment, Defendant's Motion should be dismissed as moot. Because this response in opposition is self-explanatory, Plaintiffs request to be relieved from submitting a formal memorandum of law.

WHEREFORE, for these reasons Plaintiff respectfully requests that this Court enter an order denying Defendants' Motion for Partial Summary Judgment.

Respectfully submitted,

KLINE & SPECTER, PC



Dated: October 25, 2018

BY:

Lee B. Balesky, Esquire/25231
1525 Locust Street, 19th Floor
Philadelphia, PA 19102
(215) 772-1000
Lee.Balesky@klinespecter.com
Attorneys for Plaintiffs